

HOUSE No. 1701

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross and Scott P. Brown

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Requiring that Eminent Domain be for the Public Use and Defining Public Use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard J. Ross	9th Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Francis Faulkner	444 Taunton Street Wrentham, MA 02093
Stephen L. DiNatale	3rd Worcester
Christine E. Canavan	10th Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1704 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REQUIRING THAT EMINENT DOMAIN BE FOR THE PUBLIC USE AND DEFINING PUBLIC USE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 Notwithstanding any other provision of law, neither this State nor any political subdivision thereof nor any
2 other condemning entity shall use eminent domain unless it is necessary for a public use. Whenever property is
3 condemned and will be used by a private party, the *condemner* must establish by clear and convincing evidence that
4 the use of eminent domain complies with this section and is reasonably necessary.

5 Public use: The term “public use” shall only mean (1) the possession, occupation, and enjoyment of the
6 land by the general public, or by public agencies; (2) the use of land for the creation or functioning of public utilities
7 or common carries; or (3) where the use of eminent domain (a)(i) removes a public nuisance; (ii) removes a structure
8 that is beyond repair or unfit for human habitation or use; or (iii) is used to acquire abandoned property in its current
9 condition. The public benefits of economic development, including an increase in tax base, tax revenues,
10 employment, general economic health, shall not constitute a public use.